

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Bombardier Recreational Products Inc.  
and BRP U.S., Inc.

Plaintiffs,

v.

ORDER

Civil No. 12-2706 (MJD/LIB)

Arctic Cat Inc. and  
Arctic Cat Sales Inc.,

Defendants.

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Harry C. Marcus, Robert K. Goethals and Joseph A. Farco, Locke Lord LLP  
and Kevin D. Conneely, Stinson Leonard Street LLP, Counsel for Plaintiff.

Annamarie A. Daley, Niall A. MacLeod and Emily Grande Stearns, Barnes  
& Thornburg LLP, Counsel for Defendants.

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This matter is before the Court on Defendants' appeal of Magistrate Judge  
Leo Brisbois' Order dated April 28, 2014 [Doc. No. 260] denying Defendants'  
motion to assert privilege over document AC00016248 and denying Defendants'  
request for all documents relating to Plaintiffs' communications with Exponent  
Inc. regarding interpretation of the patents, testing protocols and testing of  
Defendants' snowmobiles to which Plaintiffs expressly waived all privilege and  
protections.

The Court must modify or set aside any portion of the Magistrate Judge's Order found to be clearly erroneous or contrary to law. See 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); Local Rule 72.2(a). Based on a review of the record and the submissions of the parties, the Court concludes that the Magistrate Judge's Order denying Defendants' request for all documents relating to Plaintiffs' communications with Exponent Inc. regarding interpretation of the patents, testing protocols and testing of Defendants' snowmobiles to which Plaintiffs expressly waived all privilege and protections is neither clearly erroneous or contrary to law.

The Court will set aside that portion of the Order denying Defendants' request to assert privilege over document AC00016248 as this Court finds that Defendants have sufficiently established that this document contains privileged attorney/client communications.

IT IS HEREBY ORDERED that the Order dated April 28, 2014 [Docket No. 260] is AFFIRMED in all respects with the exception that Defendants may clawback AC00016248 as a privileged document.

Date: June 30, 2014

s/ Michael J. Davis

Chief Judge Michael J. Davis  
United States District Court